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Marc A. Najork

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WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION)  
ONE LIBERTY PLACE - 46TH FLOOR  
PHILADELPHIA, PA 19103

EXAMINER

PONIKIEWSKI, TOMASZ

ART UNIT

PAPER NUMBER

2165

DATE MAILED: 08/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/663,933	NAJORK, MARC A.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Tomasz Ponikiewski	2165	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 28-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27, 33-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/24/2003</u> , <u>12/22/2004</u>  | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. Claims 1-40 are pending. Claims 28-32 are withdrawn from consideration.

### ***Election/Restrictions***

2. Applicant's election without traverse of group I in the reply filed on 2/09/2006 is acknowledged.

Claims 28-32 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected group II, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 2/09/2006 .

### ***Claim Objections***

3. Claims 16-18, and 25-27 recite the word "for" in the body of the claims. It indicates intended use and as such does not carry patentable weight. The word could be changed to recite "to". The limitations following the phrase "for" describes only intended use but not necessarily required functionality of the claim. Limitations following the phrase "for" do not carry patentable weight, which cause the claims to appear as a series of non-functional descriptive material/data without any functional relation with each other. Applicant is required to amend the claims so that the claim limitations are recited in a definite form. For example, claim 16 recites "for carrying" should be "carrying" or "to carry".

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Claims 1, and 19 are objected to for minor informalities: The format of the claim should be changed to be compliant with MPEP. There needs to be a carriage return between elements of a system or steps of a method. See MPEP 608.01(m)

"Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation, 37 CFR 1.75(i)."

Claims 2-18, 20-27, and 34-40 are objected to because of the following informalities: Each of these dependent claims starts with a method, a computer readable medium. As such it indicates a new instance of each not dependant on the parent claim. The dependant claims should start with "the method" and "the computer readable medium". Appropriate correction is required.

Claims 1, and 19 introduce "a server" multiple times for condition A, B, and C. The examiner believes that each recitation is new instances of a server, if that is not true then those recitations are possible rejections for no antecedent basis.

Claims 1 and 19 present a choice by reciting "at least one of" in lines 2-3. As such it is possible that two of the three choices does not need to happen. As such all the dependant claims are improper since they don't narrow the scope of the independent claims as they are directed to optional language.

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Claim 13 recites "at least one" in line 2 of the claim. As such to satisfy the claim only one of the presented limitations have to match.

Claim 33 is directed to single "means". MPEP 2164.08(a) states:

A single means claim, i.e., where a means recitation does not appear in combination with another recited element of means, is subject to an undue breadth rejection under 35 U.S.C. 112, first paragraph. In re Hyatt, 708 F.2d 712, 714-715, 218 USPQ 195, 197 (Fed. Cir. 1983) (A single means claim which covered every conceivable means for achieving the stated purpose was held nonenabling for the scope of the claim because the specification disclosed at most only those means known to the inventor.). When claims depend on a recited property, a fact situation comparable to Hyatt is possible, where the claim covers every conceivable structure (means) for achieving the stated property (result) while the specification discloses at most only those known to the inventor.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1, 12, 14-15, 19, and 37-40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 9 recite the limitation "the same symbolic host name" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claims 1 and 19 recite the limitation "the same domain" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claims 1 and 19 recite the limitation "the same IP address" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 37 recites the limitation "the number of outlinks" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

Claim 38 recites the limitation "the same symbolic host name" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 39 recites the limitation "the same domain" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 40 recites the limitation "the same protocol" in line 3. There is insufficient antecedent basis for this limitation in the claim.

The term "wherever located" in claim 1 is a relative term which renders the claim indefinite. The term "wherever located" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

The term "preferred set" in claim 12 is a relative term which renders the claim indefinite. The term "preferred set" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claims 1 and 19 have missing steps, since the claim appears to be directed to a single step of "assigning", it is missing steps of storing the score anywhere, calculating the plurality of Web pages, etc.

Claims 14 and 15 do not explain what the "second scoring technique" is making it vague and indefinite without relationship to remaining claimed invention.

### ***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 16-18, 25-27 and 33 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 16-17, 25-26 and 33 do not list any hardware (i.e. computer) tied to the steps in order to store results or operate the steps of the claims therefore resulting in software only implementation. It is software only implementation. The steps need to be stored and executed by a computer.

Claims 18, 27, and 33-40 are not limited to tangible embodiments. In view of applicant's disclosure, specification pages 13-14, paragraph 0045, the medium is not limited to tangible embodiments. As such, the claim is not limited to statutory subject matter and is therefore non-statutory.

To overcome this type of 101 rejection the claims need to be amended to include only the physical computer media (i.e. storage media) and not a transmission media or other intangible or non-functional media. For this specification, signal-bearing media would be not statutory but storage media would be statutory.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-14, 16-27, and 33-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Dutta (US 2002/0078045 A1).

As per claim 1 Dutta is directed to a method for assigning a score to a document of a plurality of structurally linked documents wherein the document is located on a Web server defined by at least one of: (A) a server comprising a plurality of Web pages with



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the same symbolic host name (Dutta, figure 2, number 42, wherein each information content server could have same symbolic host name), (B) a server comprising a plurality of Web pages associated with the same domain (Dutta, figure 2, number 42, wherein each information content server is a domain), and (C) a server having a plurality of Web pages associated with the same IP address (not covered since the claim offers a choice of servers) and the document has at least one backlink from at least one other document of the plurality of structurally linked documents, wherever located, comprising (Dutta, page 2, paragraph 0010, lines 9-10):

assigning the score to the document in inverse proportion to the number of documents located on said Web server (Dutta, page 8, paragraph 0047, lines 20-21, wherein "number of documents" could mean "weighting value").

As per claim 2 Dutta is directed to assigning the score to the document in proportion to the number of said at least one other document (Dutta, page 8, paragraph 0047, lines 27-28, wherein "number of documents" could mean "weight value").

As per claim 3 Dutta is directed to assigning the score in proportion to at least one score assigned to at least one of said at least one other document (Dutta, page 2, paragraph 0013, lines 7-9).

As per claim 4 Dutta is directed to assigning the score in proportion to (A) the number of said at least one other document and (B) at least one score assigned to at

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least one of said at least one other document (Dutta, page 2, paragraph 0013, lines 7-9; page 8, paragraph 0047, lines 27-28, wherein “number of documents” could mean “weight value”).

As per claim 5 Dutta is directed to assigning the score to the document in inverse proportion to the number of outlinks of at least one of said at least one other document (Dutta, page 2, paragraph 0010, lines 8-10).

As per claim 6 Dutta is directed to said assigning includes assigning the score to the document in inverse proportion to the number of documents located on the same domain as said document (Dutta, figure 2, number 42, wherein each information content server is a domain; page 8, paragraph 0047, lines 20-21, wherein “number of documents” could mean “weighting value”).

As per claim 7 Dutta is directed to said assigning includes assigning the score to the document in inverse proportion to the number of documents having the same symbolic host name as said document (Dutta, figure 2, number 42, wherein each information content server could have same symbolic host name; page 8, paragraph 0047, lines 20-21, wherein “number of documents” could mean “weighting value”).

As per claim 8 Dutta is directed to said assigning includes assigning the score to the document in inverse proportion to the number of documents associated with the

same internet protocol (IP) address as said document (not covered since claim 1 offers a choice of servers).

As per claim 9 Dutta is directed to assigning the score to the document based upon summing the scores of the at least one other document linking to said first document (Dutta, page 9, paragraph 0055, lines 29-33, wherein "other document" score could mean "weight value").

As per claim 10 Dutta is directed to the plurality of structurally linked documents are Web pages having hyperlinks and the document is a Web page (Dutta, page 2, paragraph 0010, lines 8-10).

As per claim 11 Dutta is directed to including outputting the score of the document to a component of a Web search service (Dutta, page 10, paragraph 0056, lines 15-16).

As per claim 12 Dutta is directed to including assigning a preferred set of documents scores higher than an average minimum score (Dutta, page 9, paragraph 0055, lines 3-9).

As per claim 13 Dutta is directed to the set of preferred documents is based on at least one of Nielsen ratings, ratings assigned by humans, Web page usage patterns

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extracted from ISP proxy logs, Web page usage patterns extracted from a search engine and documents specified according to a user preference (Dutta, page 9, paragraph 0055, lines 6-9).

As per claim 14 Dutta is directed to including altering the score of the document based upon a second scoring technique (Dutta, page 9, paragraph 0055, lines 1-39; page 9, paragraph 0055, lines 17-22).

As per claim 16 Dutta is directed to an application programming interface comprising computer executable modules having computer executable instructions for carrying out the method of claim 1 (Dutta, page 4, paragraph 0034, lines 11-13; page 5, paragraph 0034, line 1).

As per claim 17 Dutta is directed to a computing device comprising means for carrying out the method of claim 1 (Dutta, figure 2, number 28)

As per claim 18 Dutta is directed to a modulated data signal carrying computer executable instructions for performing the method of claim 1 (Dutta, figure 2, number 26; page 4, lines 12-16).

As per claim 19 Dutta is directed to A method for assigning a score to a document of a plurality of structurally linked documents wherein the document is located

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on a Web server defined by at least one of: (A) a server comprising a plurality of Web pages with the same symbolic host name (Dutta, figure 2, number 42, wherein each information content server could have same symbolic host name), (B) a server comprising a plurality of Web pages associated with the same domain (Dutta, figure 2, number 42, wherein each information content server is a domain), and (C) a server having a plurality of Web pages associated with the same IP address (not covered since the claim offers a choice of servers) and the document has at least one backlink from at least one source document of the plurality of structurally linked documents (Dutta, page 2, paragraph 0010, lines 9-10), wherein the score of the document is calculated in proportion to at least one score associated with at least one of the at least one source document, and wherein the score is calculated inversely proportional to the number of said at least one source document located on said Web server (Dutta, page 8, paragraph 0047, lines 20-21, wherein “number of documents” could mean “weighting value”).

As per claim 20 Dutta is directed to the score is calculated inversely proportional to the number of said at least one source document located on the same Web server (Dutta, page 8, paragraph 0047, lines 20-21, wherein “number of documents” could mean “weighting value”).

As per claim 21 Dutta is directed to the score is calculated inversely proportional to the number of said at least one source document having the same symbolic host

name (Dutta, figure 2, number 42, wherein each information content server could have same symbolic host name; page 8, paragraph 0047, lines 20-21, wherein "number of documents" could mean "weighting value").

As per claim 22 Dutta is directed to the score is calculated inversely proportional to the number of said at least one source document associated with the same domain (Dutta, figure 2, number 42, wherein each information content server is a domain; page 8, paragraph 0047, lines 20-21, wherein "number of documents" could mean "weighting value").

As per claim 23 Dutta is directed to the score is calculated inversely proportional to the number of said at least one source document associated with the same internet protocol (IP) address (not covered since claim 19 offers a choice of servers).

As per claim 24 Dutta is directed to the plurality of structurally linked documents are Web pages having hyperlinks and the document is a Web page (Dutta, page 2, paragraph 0010, lines 8-10).

As per claim 25 Dutta is directed to an application programming interface comprising computer executable modules having computer executable instructions for carrying out the method of claim 19 (Dutta, page 4, paragraph 0034, lines 11-13; page 5, paragraph 0034, line 1).

As per claim 26 Dutta is directed to a computing device comprising means for carrying out the method of claim 19 (Dutta, figure 2, number 28).

As per claim 27 Dutta is directed to a modulated data signal carrying computer executable instructions for performing the method of claim 19 (Dutta, figure 2, number 26; page 4, lines 12-16).

As per claim 33 Dutta is directed to a computer readable medium comprising computer executable modules comprising computer executable instructions for assigning a score to a document (Dutta, page 4, paragraph 0034, lines 11-13; page 5, paragraph 0034, line 1) of a plurality of structurally linked documents wherein the document is located on a Web server and has at least one backlink from at least one other document of the plurality of structurally linked documents, the modules comprising (Dutta, page 2, paragraph 0010, lines 9-10):

means for assigning the score to the document in inverse proportion to the number of documents located on said Web server (Dutta, page 8, paragraph 0047, lines 20-21, wherein "number of documents" could mean "weighting value").

As per claim 34 Dutta is directed to means for assigning the score to the document in proportion to the number of said at least one other document (Dutta, page

8, paragraph 0047, lines 27-28, wherein “number of documents” could mean “weight value”).

As per claim 35 Dutta is directed to means for assigning the score in proportion to at least one score assigned to at least one of said at least one other document (Dutta, page 2, paragraph 0013, lines 7-9).

As per claim 36 Dutta is directed to means for assigning the score in proportion to (A) the number of said at least one other document and (B) at least one score assigned to at least one of said at least one other document (Dutta, page 2, paragraph 0013, lines 7-9; page 8, paragraph 0047, lines 27-28, wherein “number of documents” could mean “weight value”).

As per claim 37 Dutta is directed to means for assigning the score to the document in inverse proportion to the number of outlinks of at least one of said at least one other document (Dutta, page 2, paragraph 0010, lines 8-10).

As per claim 38 Dutta is directed to means for assigning includes means for assigning the score to the document in inverse proportion to the number of documents located on a Web server with the same symbolic host name as said document name (Dutta, figure 2, number 42, wherein each information content server could have same



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symbolic host name; page 8, paragraph 0047, lines 20-21, wherein "number of documents" could mean "weighting value").

As per claim 39 Dutta is directed to means for assigning includes means for assigning the score to the document in inverse proportion to the number of documents located on the same domain as said document (Dutta, figure 2, number 42, wherein each information content server is a domain; page 8, paragraph 0047, lines 20-21, wherein "number of documents" could mean "weighting value").

As per claim 40 Dutta is directed to means for assigning includes means for assigning the score to the document in inverse proportion to the number of documents associated with the same internet protocol (IP) address as said document (not covered since claim 19 offers a choice of servers).

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dutta (US 2002/0078045 A1) in view of Guerber (US 2,935,732).

As per claim 15 Dutta does not teach comparing the score against a second scoring technique to discover anomalous results.

Guerber does teach comparing the score against a second scoring technique to discover anomalous results (Guerber, column 7, lines 20-23, wherein if no equality exists then no appropriate signal is sent).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the Dutta teachings of Guerber to include comparing the score against a second scoring technique to discover anomalous results because the result of such comparison proves that the scoring was done appropriately (Guerber, column 7, lines 26-27).

### ***Conclusion***


12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tomasz Ponikiewski whose telephone number is (571)272-1721. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin can be reached on (571)272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tomasz Ponikiewski  
August 1, 2006



JEFFREY G. FIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100